IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3265 OF 2006

Subhash Sharma .. Petitioner.
V/s.
Union of India & Others .. Respondents.

Mr.Ashok Singh i/b. M/s.DCE Legal Consultants for the petitioner.
Mrs.S.V. Bharucha with Mr.R.V. Desai, senior advocate for the respondents.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 27TH JUNE, 2006.

P.C. :

Heard learned counsel for the rival parties.

Perused petition.

2. Factual matrix reveal that the Tribunal vide its order dated 24th October, 2005 was pleased to direct the petitioner to deposit Rs.2.5 lakhs by way of pre-deposit within six weeks.

3. The petitioner did not challenge above order directing pre-deposit during the period available for making deposit. He consumed and took advantage of the entire period six weeks. However, he could not comply with the order dated 24th October, 2004 with the result appeal came to be dismissed for non-compliance of the order of pre-deposit by order dated 13th December, 2005.

4. The petitioner, thereafter on second thought decided to challenge both order by filing this petition, on 17th April, 2006 i.e. after four months from the date of the adverse order.

5. During the course of hearing, we, in order to test the bonafides of the petitioner, made enquiry from the counsel for the petitioner as to whether the petitioner is ready to comply with the order of pre-deposit. The answer came in negative.

6. The petitioner submits that he was an employee of the company and, therefore, he could not have been saddled with such heavy liability. Having heard and seen the order-in-original passed by the Commissioner, Kandla, where in para 47.2; the Commissioner has, specifically, observed that the petitioner was a master brain in the entire conspiracy right from the beginning till the end of the case. Thus, considering the involvement of the petitioner in the entire conspiracy, no fault can be found with either of the orders of the Tribunal.

7. Considering all these facts, no case is made out to interfere with the impugned order. In the result, petition is dismissed in limine with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)